

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIC A.) CIVIL NO. CV04 00428 DAE-LEK
 POWELL, THROUGH PERSONAL)
 REPRESENTATIVE MARY K.)
 POWELL; THE ESTATE OF)
 JAMES D. LAUGHLIN, THROUGH)
 PERSONAL REPRESENTATIVE)
 RAGINAE C. LAUGHLIN; MARY)
 K. POWELL, INDIVIDUALLY;)
 RAGINAE C. LAUGHLIN,)
 INDIVIDUALLY; CHLOE)
 LAUGHLIN, A MINOR, THROUGH)
 HER NEXT FRIEND, RAGINAE)
 C. LAUGHLIN,)
 Plaintiffs,)
 vs.)
 CITY AND COUNTY OF)
 HONOLULU,)
 Defendant.)

DEPOSITION OF MARY K. POWELL

Taken on behalf of Defendant at the Offices of
 Corporation Counsel, City and County of Honolulu,
 Honolulu Hale (City Hall), 530 South King Street,
 Room 110, Honolulu, Hawaii, commencing at 9:30
 a.m., on Thursday, April 28, 2005, pursuant to
 Federal Rules of Civil Procedure.

BEFORE: PHYLLIS K. KUSHINER, CSR NO. 147
 Notary Public, State of Hawaii

EXHIBIT

"5"

WELL, etc., et al., vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL
April 28, 2005

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1 Diamond Head. They went golfing. I can't think
2 of anything else.
3 Q. Okay. Do you know what day your conference
4 ended? The incident occurred on Friday.
5 A. Yeah. I believe I was done on Wednesday.
6 Q. Do you know if Jim had completed his
7 business by Wednesday?
8 A. I don't recall.
9 Q. Can you tell me what types of activities
10 you and Eric did following the conference from
11 Wednesday through Friday?
12 A. We went, Eric and I and Jim, we went to
13 Pearl Harbor. We went sightseeing. We tried to
14 go to Hanauma Bay on Thursday, but it was too
15 crowded.
16 Q. At any time during your stay in Hawaii in
17 2002, did any of you go to a different island?
18 A. No.
19 Q. I know this might be hard to remember, but
20 the day before the incident, so I think this would
21 make it July 18, 2002?
22 A. Uh-huh.
23 Q. Do you remember specifically what you did
24 that day?
25 A. I can't remember if Wednesday or Thursday

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1 mean?
2 A. I think we got up at 7:30 or 8:00 o'clock.
3 We were at Hanauma Bay by 8:30, I think.
4 Q. And did Jim meet you there, or did you pick
5 him up?
6 A. No, we drove together.
7 Q. I'm sorry. That's right because Jim was
8 staying with you?
9 A. Uh-huh.
10 Q. And other than going to Hanauma Bay, were
11 there any other plans for the day?
12 A. No. No.
13 Q. Was it your intention to stay at Hanauma
14 Bay for the entire day?
15 A. Yes.
16 Q. Can you tell me what the three of you did
17 when you first arrived at Hanauma Bay at 8:30?
18 A. Parked the car.
19 Q. And then what did you do?
20 A. Got in line to buy tickets to go in.
21 Q. Okay. And after you received your tickets,
22 you went straight through?
23 A. (Witness nodded her head up and down.)
24 Q. And then what did you do?
25 A. Found a place under a tree with some shade

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1 we went to Jerry Pupillo's waterpark. Thursday we
2 went -- Wednesday we went to the waterpark.
3 Thursday we went to Pearl Harbor.
4 Q. Do you know what else you did Thursday?
5 A. I went out to dinner with Eric.
6 Q. Do you recall what restaurant?
7 A. It was in Waikiki. I don't recall the
8 name, but we had steak.
9 Q. Did you do anything after dinner?
10 A. We went to the beach and looked for
11 shooting stars.
12 Q. Did you see any?
13 A. Yes.
14 Q. Do you recall what you did after that?
15 A. We went back to the condo.
16 Q. And do you recall what time you and Eric
17 went to bed?
18 A. It was 10:30 or 11:00 o'clock.
19 Q. And did you have specific plans that night
20 of what you were going to do the next day?
21 A. Yes.
22 Q. And what were those plans?
23 A. We were going to get up early and go to
24 Hanauma Bay.
25 Q. When you say early, what time does that

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1 to put our stuff.
2 Q. Let me show you an aerial photograph that
3 we had discussed earlier, and I will ask the court
4 reporter to mark it as Exhibit 1 to your
5 deposition.
6 (Defendant's Exhibit 1 was
7 marked for identification.)
8 Q. (By Mr. Mayeshiro) If you are able, do you
9 see where you had set your belongings down --
10 A. Yes.
11 Q. -- when you first entered? Oh, wait. Can
12 you just point to it before you make any markings?
13 A. Yes.
14 MR. MATTOCH: The witness has indicated
15 a tree growing alongside the edge of the bay.
16 MR. MAYESHIRO: Yes. What I would like
17 to do now, we are going to go off the record so
18 I can get a red pen, and then I will be right
19 back. And if you need a break or counsel needs
20 a break, also take a break.
21 (Recess was taken.)
22 MR. MAYESHIRO: Back on the record.
23 Q. Ms. Powell, showing you what is or will be
24 marked as Exhibit 1 to your deposition, let me
25 first ask you this, and I know it might be